

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Frankie D Hall**
Docket No. **275600**
L.C. No. **05-001181 FH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The motion to waive fees is GRANTED for this case only.

The application for leave to appeal and motion to remand are DISMISSED for lack of jurisdiction because defendant cannot appeal the denial or rejection of a successive motion for relief from judgment. The order of May 31, 2006, constituted denial of a motion for relief from judgment. The purpose of the prohibition against filing a successive motion for relief from judgment under MCR 6.502(G)(1) is to prevent multiple filings in the trial court and/or in the Court of Appeals. In this case the defendant filed and had decided two postjudgment motions after this Court had already denied leave to appeal in docket number 268198. Furthermore, even though labeled as a motion for resentencing and filed within 6 months of the judgment of sentence, it could not be considered as a motion for resentencing because defendant did not have an appeal available after denial of that motion. See MCR 7.205(F)(2). MCR 6.501 specifically states that a conviction and sentence can only be reviewed by motion for relief from judgment if not subject to appellate review. The Court would note that defendant was warned about the fact that the motion for resentencing could not be considered as a motion for relief from judgment. This dismissal does not prevent the defendant from filing an application from the May 31, 2006, order as an appeal from an order denying a motion for relief from judgment.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 14 2007
Date

Sandra Schultz Mengel
Chief Clerk